

RCMP NATIONAL GUIDANCE E-BINDER FOR EMPLOYEE PARTICIPATION IN 2022 COVID PROTESTS

Version 1.3

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RCMP National Guidance E-Binder for COVID-19

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TAB 1.0
OBJECTIVES AND CONTENTS



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Objective and Contents

Objective

The RCMP National Guidance E-Binder for Employee Participation in 2022 COVID Protests aims to provide up-to-date national guidance to Royal Canadian Mounted Police (RCMP) management regarding the participation of current and/or prior employees. The e-binder provides access to approved internal resources to guide managers in applying consistent approaches that strikes the balance of ensuring employees respect the values and ethics of their employment with employees' rights for peaceful, lawful protests.

Content

The National Guidance E-Binder contains information that will provide national guidance for a consistent, informed approach and is specific to the participation of employees or retired employees in the protests.

Key guidance areas include:

- Legal Considerations
- Security Considerations
- Conduct Considerations
- Special Circumstances

This guide is a work in progress, relying on the exchange of best practice information across all police centres, and continues to evolve as updated information becomes available.

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TAB 2.0
LEGAL CONSIDERATIONS



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2.1 General Guidance

Guidance – General Principles Relevant to the Balance Between the Right to Free Speech and the Employees' / Members' Duty of Loyalty – Employment Context

- The question if disciplining for criticizing the government on social media or taking part of in a demonstration raises complex and nuanced issues for the employer, such as the divide between an employee's private life (off-duty conduct) and their employment responsibilities, and the extent to which an employer can restrict an employee's right to express his or her personal views.
 - Arbitral boards and courts have found that off-duty conduct can impact the employer's legitimate business interests and thus warranted restriction or disciplinary action where an employee was convicted of a crime; associated with members of criminal organizations; made public criticism of the employer; or harassed or threatened colleagues.
- Due to the legitimate public interest in an impartial and effective public service, a public service employee's right to freedom of expression is not absolute. It must be balanced against the employee's concomitant duty of loyalty to the employer and the Government of Canada as per the Values and Ethics Code for the Public Sector and the Code of Conduct for RCMP Members. For members see RCMP Member Code of Conduct. For public service employees see Public Service Employee Code of Conduct. The type of discipline warranted would depend on the facts of the case and could potentially range from a warning up to dismissal.
- Bottom line: Dept. can discipline employees following an investigation. Dept has experienced LR advisors and a sophisticated approach to discipline / conduct. Lets follow the disciplinary process and look at the relevant factors on a case by case basis prior to disciplining employees. Factors to assess could include the position of the employee, implications / actions etc. For example, do the actions impact his/her ability to effectively perform their duties or the public's perceptions of that ability?

General Guidance – Peaceful Protests (Outside of the Employment Context)

Lawful Protest Summary

- Freedom of expression and peaceful assembly are fundamental freedoms protected by the Charter of Rights and Freedoms.
- Freedom of expression and freedom of association include the right to engage in non-violent activity, which can include protest. Violence or threats of violence are not protected under the rights to freedom of expression or association.
- Protest is not unlawful just because it is loud and angry.
- Nonetheless, the right to protest does not extend to assemblies that are no longer peaceful. Political protests can be subject to reasonable restrictions to prevent them from causing serious disruption to others. For example, the Emergency Measures Regulations prohibit participation in a public assembly that may reasonably be expected to lead to a breach of the peace by:
 - the serious disruption of the movement of persons or good or the serious interference with trade;
 - the interference with the function of critical infrastructure; or

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- the support of the threat or use of acts of serious violence against persons or property.

For Internal Awareness:

- The BC Court of Appeal said last month in *Teal Cedar Products Ltd. v. Rainforest Flying Squad*, 2022 BCCA 26, with respect to protests at Fairy Creek:

“[76] It is not tenable in a democracy for a group to abandon the democratic process and impose their will on others by force. In a complex, pluralistic society, the democratically-elected government makes laws, and the courts interpret and uphold them.”

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2.2 *Emergencies Act* Implications

On February 14, 2022, the Government of Canada declared a public order emergency under the *Emergencies Act*.

The public order emergency grants the Government the authority to apply the following temporary measures:

- Regulating and prohibiting public assemblies, including blockades, other than lawful advocacy, protest or dissent
- Regulating the use of specified property, including goods to be used with respect to a blockade
- Designating and securing places where blockades are to be prohibited (e.g. borders, approaches to borders, other critical infrastructure)
- Directing specified persons to render essential services to relieve impacts of blockades on Canada's economy
- Authorizing or directing specified financial institutions to render essential services to relieve the impact of blockades, including by regulating and prohibiting the use of property to fund or support the blockades
- Measures with respect to authorizing the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference
- The imposition of fines or imprisonment for contravening on any of the measures declared under this public order emergency

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Emergencies Act

Emergency Measures Regulations (Regulations) & Emergency Economic Measures Order (Order)

In Force: February 15, 2022 | Expiration Date: March 17, 2022, with possible extension

Fundamental Principles

Objectives: (1) Regulate and prohibit public assemblies that lead to a breach of the peace (other than lawful advocacy, protest or dissent) and (2) limit the funding of such assemblies.

New Tools: Supplement existing enforcement tools and fill gaps in legislative authorities at the federal/provincial level needed during an

Emergency Measures Regulations – New Tools

Tools apply to Public Assemblies expected to lead to a Breach of the Peace by: [s.2(1) Reg.]

- Serious disruption of the movement of persons/goods or serious interference with trade;
- Interference with the functioning of critical infrastructure; or
- Support of the threat or use of serious violence against persons/property.

Prohibit:

1. **Participating in these public assemblies** [s. 2(1) Reg.]
2. **Causing Minors (under 18)** to participate or travel to these public assemblies [ss. 2(2) & 4(2) Reg.]
3. **Entering Canada** to participate in/facilitate these public assemblies [s. 3 Reg.]
4. **Travelling to/within** these public assemblies (subject to specified exemptions) [s. 4 Reg.]
5. **Using/Collecting/ Making available property** to those facilitating/participating in these public assemblies [s. 5 Reg.]

Require individuals and companies to provide essential goods and services for towing, removing and storing blockade vehicles, equipment or other objects immediately [ss. 7-9 Reg.].

Allow the proactive securing of identified and designated Protected Places (e.g. parliamentary precinct, official residences, government buildings, war monuments, critical infrastructure, etc.) [s. 6 Reg.].

RCMP Officers may enforce Provincial/Municipal Laws for the purposes of the Regulations [s. 10(1) Reg.].

Peace Officers may take the necessary measures to ensure compliance [s. 10 (1) Reg.].

Prosecute Contraventions of the Regulations: Summary conviction (max. \$500 fine and/or 6 months prison); or Indictment (max. \$5,000 fine and/or 5 years prison) by federal/provincial prosecution services (arrest or indictment) [s.10(2) Reg.]; **(max. \$5,000 fine and/or 5 ve**

Emergency Economic Measures Order

- **Prohibits engaging in financial transactions** supporting
- **Requires banks and other financial entities, such as service providers (e.g. PayPal), insurance companies** [Order]
- **Review (and continually monitor)** to see if the bank accounts, cryptocurrencies and other assets are unlawful public assemblies.
- **Freeze/suspend** their account, vehicle insurance and investments. No court order is needed.
- **Cease providing them financial services** or facilities.
- **Register with and report suspicious transactions** to the RCMP or CSIS.
- **Without delay, disclose to the RCMP or CSIS** if involved in the unlawful public assemblies and or proposed transaction.
- **Unfreeze** their account, crypto wallet, lending no longer involved in the unlawful public assembly.
- **Allows federal, provincial or territorial institutions** (if at their discretion, any information with financial entity name and address of a driver participating in an unlawful

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EMERGENCIES ACT

P.C. 2022-107 February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*^a, declared that a public order emergency exists;

And whereas the Governor in Council believes on reasonable grounds, that the regulation or prohibition of public assemblies in the areas referred to in these Regulations are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*^a, makes the annexed *Emergency Measures Regulations*.

emergency measures regulations

interpretation

1 The following definitions apply to these Regulations

Act means the *Emergencies Act* (Loi)

critical infrastructure means the following places, including any land on which they are located:

- (a) airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railway stations, railways, tramway lines, bus stations, bus depots and truck depots;
- (b) infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications;
- (c) international and interprovincial bridges and crossings;
- (d) power generation and transmission facilities;
- (e) hospitals and locations where COVID-19 vaccines are administered;
- (f) trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses. (*infrastructures essentielles*)

^a R.S., c. 22 (4th Suppl.)

LOI SUR LES MESURES D'URGENCE

C.P. 2022-107 Le 15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*^a, déclaré qu'il se produit un état d'urgence;

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il est fondé de réglementer ou d'interdire des assemblées publiques dans les endroits visés,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*^a, Son Excellence la Gouverneure générale en conseil prend le *Règlement sur les mesures d'urgences*, ci-après.

règlement sur les mesures d'urgences

définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

agent de la paix Tout officier de police ou agent de police employé à la préservation et au maintien de la paix publique. (*peace officer*)

étranger S'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*. (*foreign national*)

infrastructures essentielles Les lieux ci-après, y compris le terrain sur lequel ils sont situés :

- a) les aéroports, aérodromes, héliports, havres, ports, gares maritimes, jetées, phares, canaux, gares ferroviaires et chemins de fer, terminus d'autobus et garages d'autobus ou de camions;
- b) les infrastructures servant à la fourniture de services publics tels que l'eau, le gaz, l'assainissement et les télécommunications;
- c) les ponts et les ouvrages de franchissement internationaux et interprovinciaux;
- d) les installations de production et de transmission d'énergie;

^a L.R., ch. 22 (4e suppl.)

foreign national has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act* (*étranger*)

peace officer means a police officer, police constable, constable, or other person employed for the preservation and maintenance of the public peace (*agent de la paix*)

protected person has the same meaning as in subsection 95(2) of the *Immigration and Refugee Protection Act* (*personne protégée*)

Prohibition — public assembly

2 (1) A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by:

- (a) the serious disruption of the movement of persons or goods or the serious interference with trade;
- (b) the interference with the functioning of critical infrastructure; or
- (c) the support of the threat or use of acts of serious violence against persons or property.

minor

(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Prohibition — entry to Canada — foreign national

3 (1) A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1).

exemption

(2) Subsection (1) does not apply to

- (a) a person registered as an Indian under the *Indian Act*;
- (b) a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations;
- (c) a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*;

e) les hôpitaux et les endroits où sont administrés les vaccins contre la COVID-19;

f) les axes commerciaux et les postes frontaliers internationaux, y compris les points d'entrée, les bureaux de douanes, les entrepôts de stockage et les entrepôts d'attente. (*critical infrastructure*)

Loi La Loi sur les mesures d'urgence. (Act)

personne protégée S'entend au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*. (*protected person*)

interdiction - assemblée publique

2 (1) Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants :

- a) en entravant gravement le commerce ou la circulation des personnes et des biens;
- b) en entravant le fonctionnement d'infrastructures essentielles;
- c) en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens.

mineur

(2) Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

interdiction - entrée au Canada - étranger

3 (1) Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée.

exemption

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

- a) une personne inscrite à titre d'Indien sous le régime de la *Loi sur les Indiens*;
- b) la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du *Règlement sur l'immigration et la protection des réfugiés*, qui est titulaire d'un visa de résident permanent délivré aux termes du paragraphe 139(1) de ce règlement;
- c) la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*;

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(d) a person who seeks to enter Canada for the purpose of making a claim for refugee protection;

(e) a protected person;

(f) a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest.

Travel

4 (1) A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.

minor — travel near public assembly

(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

exemptions

(3) A person is not in contravention of subsections (1) and (2) if they are

(a) a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;

(b) a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;

(c) a peace officer; or

(d) an employee or agent of the government of Canada or a province who is acting in the execution of their duties.

use of property — prohibited assembly

5 A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.

designation of protected places

6 The following places are designated as protected and may be secured:

(a) critical infrastructures;

(b) *Parliament Hill* and the *parliamentary precinct* as they are defined in section 79.51 of the *Parliament of Canada Act*;

d) la personne qui cherche à entrer au Canada afin de faire une demande d'asile;

e) la personne protégée;

f) sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national.

déplacements

4 (1) Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

déplacements à proximité d'une assemblée publique - mineur

(2) Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).

exemptions

(3) Ne contrevient pas aux paragraphes (1) et (2) :

a) la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;

b) la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;

c) l'agent de la paix;

d) l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.

utilisation de biens - assemblée interdite

5 Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.

désignation de lieux protégés

6 Les lieux suivants sont protégés et peuvent être aménagés :

a) les infrastructures essentielles;

b) la *cité parlementaire* et la *Colline parlementaire* au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;

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- (c) official residences;
- (d) government buildings and defence buildings
- (e) any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;
- (f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.

direction to render essential goods and services

7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

method of request

(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.

verbal request

(3) Any verbal request must be confirmed in writing as soon as possible.

Period of request

8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:

- (a) the day referred to in the request;
- (b) the day on which the declaration of the public order emergency expires or is revoked; or
- (c) the day on which these Regulations are repealed.

Compensation for essential goods and services

9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

- c) les résidences officielles;
- d) les immeubles gouvernementaux et les immeubles de la défense;
- e) tout ou partie d'un bâtiment ou d'une structure servant principalement de monument érigé en l'honneur des personnes tuées ou décédées en raison d'une guerre — notamment un monument commémoratif de guerre ou un cenotaphe —, d'un objet servant à honorer ces personnes ou à en rappeler le souvenir et se trouvant dans un tel bâtiment ou une telle structure ou sur le terrain où ceux-ci sont situés, ou d'un cimetière;
- f) tout autre lieu désigné par le ministre de la Sécurité publique et de la Protection civile.

Ordre de fournir des biens et services essentiels

7 (1) Toute personne doit rendre disponibles et fournir les biens et services essentiels demandés par le ministre de la Sécurité publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, des structures ou de tout autre objet qui composent un blocage.

modalités

(2) La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.

demande verbale

(3) La demande verbale est confirmée par écrit dès que possible.

Période de validité

8 Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :

- a) la date indiqué à la demande;
- b) la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;
- c) la date de l'abrogation du présent règlement.

indemnisation pour les biens et services essentiels

9 (1) Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.

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Compensation

(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case maybe.

Compliance — peace officer

10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.

Contravention of regulations

(2) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply

(a) on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Coming into force

11 This Order comes into force on the day on which it is registered.

indemnisation

(2) Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.

Application des lois

10 (1) En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Pénalités

(2) Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité :

a) par procédure sommaire, d'une amende maximale de 500 \$ et d'un d'emprisonnement maximal de six mois, ou de l'une de ces peines;

b) par mise en accusation, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.

entrée en vigueur

11 Le présent règlement entre en vigueur à la date de son enregistrement.

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TAB 3.0
SECURITY CONSIDERATIONS



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3.2 General Security Incident Reporting

RCMP employees have a responsibility to maintain their security status and applicable clearances by protecting the RCMP's Integrity, information and assets. The RCMP's security framework is governed by Treasury Board and RCMP policies, which serve to protect the organization's systems, facilities, equipment, information and people. All RCMP employees play a critical role in upholding the level of trust afforded to the RCMP as Canada's national police service.

RCMP employees sign an agreement to comply with the statutory and administrative requirement of their security status and clearance upon their issuance (GoC Form 330-47);

The individual named herein is authorized access to the level of information/assets indicated above when there is a work related need. If an individual fails to safeguard, releases without appropriate authority or uses information/assets for unauthorized purposes, such action may constitute a contravention of the Security of Information Act, the Access to Information Act, the Privacy Act or other Acts of Parliament, a breach of the Government Security Policy or the Oath of Secrecy. These provisions apply both during and after service to the Government of Canada. Specific safeguards are identified in the Government Security Policy and Standards and in corresponding departmental or organizational policies which apply to classified and protected information/assets. These safeguards must be applied. Classified or protected information/assets must be returned immediately to the appropriate institutional authority when notification is given that the person named herein no longer requires access to such information/assets.

A security incident is any action, event, behavior that could negatively impact the security posture of the RCMP. This includes but is not limited to the following:

- security violation, (Any act that contravenes security directives)
- security breach, (The unauthorized disclosure, theft, loss or access to Classified/Protected assets or information)
- malicious code attack, (A computer program that performs illicit functions such as computer viruses, Trojan horses or worms)
- any threat or act of violence, (An individual under threat of violence because of their duties or because of situations to which they are exposed)
- Adverse behaviour such as non-compliance with the law, rules or policy may raise questions and cast doubt on the ability of the employee to maintain their Security Status.

All security incidents should be reported immediately to the Regional Departmental Security Section utilizing form 2159, Security Incident Report. <http://infoweb.rcmp-grc.gc.ca/form/catalogue/2159e.pdf>

Regional Departmental Security Sections;

- Irrelevant [REDACTED] ("E" and "M" Divisions)
Shaleena Meghji (Shaleena.Meghji@rcmp-grc.gc.ca)
778-290-2825 Office
- Irrelevant [REDACTED] ("K", "F", "D", "V", and Depot Divisions)
Insp. Shelly Lowe (Shelly.Lowe@rcmp-grc.gc.ca)
Irrelevant [REDACTED] Mobile 639-625-4086 Office

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- Irrelevant [REDACTED] (NHQ, National, "O", and "C" Divisions)
Jasmin Breton (jasmin.breton@rcmp-grc.gc.ca)
Irrelevant [REDACTED] Mobile
- Irrelevant [REDACTED] ("J", "H", "L", and "B" Divisions)
Insp. Matco Sirotic (matco.sirotic@rcmp-grc.gc.ca)
Irrelevant [REDACTED] Mobile 902-720-5814 Office

Maintaining a Security Status and clearance is based upon an employee's honesty, trustworthiness, integrity and reliability.

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TAB 4.0
CONDUCT CONSIDERATIONS



[APG]

4.1 Policy Framework

Members (Regular and Civilian Members)

- *RCMP Act, RCMP Regulations and Commissioner's Standing Orders (Conduct)* and RCMP Policy (AM XII.1 Conduct)

The responsibilities of every member and the framework for the RCMP Code of Conduct are outlined in Part IV of the [RCMP Act](#). The Code of Conduct is set out in the [Schedule](#) [(Section 18 and subsection 23(1)) to the [RCMP Regulations](#).

The RCMP Code of Conduct applies to all **regular members** and **civilian members**, both on and off-duty, in Canada and abroad. A member is also subject to the provisions of the [RCMP Act](#), the [RCMP Regulations](#), and all applicable Commissioner's Standing Orders during periods of medical leave or any other type of leave with or without pay.

The objectives of the RCMP Code of Conduct are to maintain public trust and promote good conduct, thereby making members accountable and responsible for their actions. Public trust is essential for the RCMP to effectively serve and protect Canadians. The RCMP Code of Conduct clearly outlines members' responsibilities to conduct themselves in a manner that not only meets, but exceeds, the rightfully high expectations of Canadians.

The conduct process is administrative in nature and involves administrative actions, decisions or processes provided for by the *RCMP Act*, the *RCMP Regulations*, the *Commissioner's Standing Orders (Conduct)* or RCMP policy relating to an alleged contravention of the Code of Conduct by a member. This administrative process is separate and distinct from other proceedings (i.e. criminal investigations) and is governed by legal requirements respecting the employer–employee relationship.

Employees (PSE and Other Category of Employee)

- TB Policy
- *Values and Ethics of the Public Service*
- RCMP Policy Manual AM – ch. XII.13. Public Service Employee Code of Conduct

[APG]

4.2 Retired Members

Who

Retired members in good standing at time of discharge.

Once a member ceases to be a member of the RCMP (i.e. a retired member), there is no longer any jurisdiction to address an alleged contravention of the Code of Conduct under the *RCMP Act*, *RCMP Regulations* or *Commissioner's Standing Orders (Conduct)*.

Context

When a member retires in good standing, on the recommendation of the Employee-Management Relations Officer, their Commanding Officer can formally approve the ability for them to wear a uniform for ceremonial purposes. The uniform remains the property of the RCMP but the privilege to wear the uniform is extended.

Authorities

RCMP Administration Manual II.14.G.1.a.1¹. (x-ref: UDM - ch. 1. Uniform and Grooming²).

Guidance

If the member being discharged is not leaving in good standing, the member is not authorized to wear the uniform at all.

Unless authorized to continue to wear the uniform of the RCMP for state and official occasions, all items of uniform must be returned or destroyed. The member needs to return all their items to their Unit Commander who will account for the uniform & equipment that is being returned.

If authorized, the discharged member may retain only those items required for Review or Walking Out Order of dress. The member must ask permission before wearing the uniform for any occasion.

The authorization to wear the RCMP ceremonial uniform may be rescinded by the commanding officer / delegate if the individual fails to demonstrate good conduct.

Process

The responsibility for recommending rescinding authority to wear the uniform on the basis of a failure to demonstrate good conduct falls to the Commanding Officer / Director General of the Division.

- Individuals that observe retired members in uniform at protest events should use their chain-of-command to flag these observations.

RCMP policies do not address situations where the authority to wear the uniform is rescinded. In practice:

- An initial cease-and-desist rescinding the authority to wear the uniform is served on the retired member. This includes a request for the items to be returned.
- If the member fails to return the items, a second "demand" letter is served to identify the requirement to return the items.
- If the member continues to refuse, the items are seized by way of search warrant.

¹ <http://infoweb.rcmp-grc.gc.ca/english/rcmpmanuals/am/ii/amII-14/amII-14.htm>

² <http://infoweb.rcmp-grc.gc.ca/manuals-manuels/national/udm-mut/1/1-eng.htm#t6>

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Warrant Officers / Sous-officiers brevetés

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Musical Ride / Sous-direction du Carrousel	Sgt. Scott Williamson	Scott.T.Williamson@rcmp-grc.gc.ca 613-993-7737

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4.3 Members

Who

The RCMP Code of Conduct applies to all **regular members** and **civilian members**, both on and off-duty, in Canada and abroad. A member is also subject to the provisions of the [RCMP Act](#), the [RCMP Regulations](#), and all applicable Commissioner's Standing Orders during periods of medical leave or any other type of leave with or without pay.

Context

RCMP members are responsible and accountable for the promotion and maintenance of good conduct. Contraventions of the Code of Conduct are taken seriously and the RCMP is committed to handling conduct issues in a responsive, timely, efficient and fair manner.

Authorities

The responsibilities of every member and the framework for the RCMP Code of Conduct are outlined in Part IV of the [RCMP Act](#), the [RCMP Regulations](#), the [Commissioner's Standing Orders \(Conduct\)](#) and RCMP policy ([AM XII.1 Conduct](#)).

The RCMP Code of Conduct can be found in a [schedule](#) within the [RCMP Regulations](#). Contraventions of provisions of the [Code of Conduct](#) will be addressed in a manner that is:

- Fair and consistent;
- Dealt with at the most appropriate level of the Force;
- Emphasizes the importance of maintaining the public trust; and
- Reinforces the high standard of conduct expected of members'.

Decisions regarding any allegation of a breach of the Code of Conduct against a member are made by conduct authorities. Conduct authorities are designated by the Commissioner either directly or by virtue of the [Commissioner's Standing Orders \(Conduct\)](#), and are typically a member's commander, or another person in the chain of command. Different levels of conduct authorities are provided with varying authorities under the conduct management process.

Guidance

Conduct authorities are responsible for the management of the conduct process, including any of the administrative actions, decisions, or processes provided for by the [RCMP Act](#), the [RCMP Regulations](#), the [CSOs](#), or RCMP policies, relating to an alleged contravention of the Code of Conduct.

Any information in relation to an alleged contravention of the RCMP Code of Conduct by a member in relation to the protests should be reported to the Duty Inspector at the National Capital Region Command Center who, in turn, will re-direct the matter to a Divisional Conduct Advisor and/or a conduct authority in respect of a member (i.e. within a member's chain of command in their home unit) for an assessment of any conduct implications.

Process

A conduct authority is responsible for determining if a member's conduct amounts to a contravention of the Code of Conduct and, if a contravention is established, to impose conduct measures that are proportionate to the nature and circumstances of the contravention and, where appropriate, that are educative, and remedial rather than punitive.

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To initiate conduct proceedings, the conduct authority must determine that there is an appearance of a contravention of the Code of Conduct **and** must know the identity of the involved member.

The conduct process must not be used to deal with unsatisfactory performance, or for any other administrative purpose (i.e. medical issues), except for resolving situations where it appears that a member has contravened the Code of Conduct. In the case of a member with medical issues, while they are still subject to the Code of Conduct, the Health Services Officer (HSO) would have to be consulted before engaging the conduct process.

When information is received that a member has allegedly contravened a provision of the Code of Conduct, the conduct authority at the level that is the most appropriate to the subject member must consider the information **to determine the best means of addressing the situation**, which may include referring it to the next level of conduct authority where it is clear, if established, the alleged contravention could not be adequately dealt with by the receiving level of conduct authority.

With respect to the member participation at protests, a conduct authority should be mindful of the balancing of two principal interests:

1. the employee's expectation of privacy and freedom of expression; and
2. the employer's legitimate interest in monitoring, regulating and dealing with employee conduct.

Canadian jurisprudence confirms that employers have a right to take action against an employee where:

- the employee's conduct adversely impacts the employer's reputation or product (i.e. policing services);
- the employee's conduct renders the employee unable to satisfactorily perform their duties;
- the employee's conduct leads to other employees' refusal, reluctance or inability to work with the employee;
- the employee is guilty of a serious breach of the Criminal Code such that injury is done to the general reputation of the employer and its employees; or the conduct places difficulty in the way the employer properly carrying out its functions of efficiently managing its works and efficiently directing its workforce.

The specific circumstances of the case must be considered. The following is a non-exhaustive list of considerations to take into account:

- Is the member in uniform?
- Are they identifying themselves as a member of the RCMP?
- Are they making a public statement criticizing the Government of Canada or the operations or administration of the Force?
- Are they financially contributing to the support of convoy activities?
- Have they disclosed confidential information related to the operations of the RCMP?
- Are they disobeying laws, direction/orders **or** using their position as a police officer to incite others to join in the protests?

Potential contraventions of the Code of Conduct, **depending on the specific circumstances**, could include but are not limited to:

- **Sec 9.1 [Confidentiality]** Members access, use and disclose information obtained in their capacity as members only in the proper course of their duties and abide by all oaths by which they are bound as members.
- **Sec 9.2 [Public Statements]** Members abide by their duty of loyalty and refrain from making public

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statements criticizing the Government of Canada or the operations or administration of the Force, except where authorized by law.

- **Sec 7.1 [Discreditable Conduct]** Members behave in a manner that is not likely to discredit the Force.
- **Sec 3.1 [Respect for the Law]** Members respect the law and the rights of all individuals.
- **Sec 3.2 [Abuse of Authority]** Members act with integrity, fairness and impartiality, and do not compromise or abuse their authority, power or position.
- **Sec 3.3 [Give/Follow Orders/Direction]** Members give and carry out lawful orders and direction.

Ultimately, conduct management is a decentralized function and is to be administered by the most appropriate level of conduct authority in the member's chain of command. The effective and appropriate management of incidents of misconduct requires that conduct authorities understand their responsibilities and account for their actions and decisions.

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Interim Guide

To ensure consistent application of the conduct process as it relates to member's participation in protests, the following **guide** is being provided for conduct authorities to assess and manage any incidents brought to their attention.

NB: This is a guide only and careful consideration must be given to the specific circumstances prior to determining the appropriate response. The conduct authority must consult with their Divisional Conduct Advisor prior to initiating any administrative process. The Divisional Conduct Advisor must advise the National Conduct Management Section (NCMS) of any incidents involving member participation in the protests.

Guide to Address Member Participation/Support in Protests
A conduct authority receives information that a member has participated in, or overtly supported, the protests. The conduct authority at the level that is the most appropriate to the member must: • consider the information to determine the most appropriate administrative process to address the situation (i.e. performance, medical, conduct, departmental security etc.); • in determining the appropriate course of action, ensure that resources to be committed to the proposed course of action are proportionate to the seriousness of the matter. NB: The conduct authority must consult with their Divisional Conduct Advisor. The Divisional Conduct Advisor must advise NCMS.
Step 1: Discussion/Verbal Warning Consider the nature and specific circumstances of the incident (see a non-exhaustive list above). Determine whether, in the first instance, having a meaningful discussion with the member will sufficiently address the behaviour. If a discussion is deemed insufficient, move to Step 2, or if appropriate, move directly to Step 3. If Step 1 is chosen, it is recommended that the following points are communicated to the member: • As of February 14, 2022, assembly in regards to the protests have been deemed unlawful; • The member's actions are adversely impacting the RCMP's reputation; • Provide direction/order to the member to cease any further overt participation/support of the protests; • Advise that any further overt participation/support of the protests may result in disciplinary action. The conduct authority must keep detailed notes on how, when and what was done to address the behaviour. If the member continues to overtly participate/support the protests, move to Step 2 or, if

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circumstances warrant, move directly to **Step 3**.

Step 2: Written Feedback and Written Direction/Order (1004)

Consider the nature and specific circumstances of the incident (see a non-exhaustive list above).

If appropriate, provide written feedback to address the behaviour and order the member to cease any further overt participation/support of the protests.

- Serve 1004 on member including, but not limited to, the following:
 - Please be advised this 1004 relates to your participation in and/or overt support of unlawful protests deemed prohibited by the Federal Government under the *Emergencies Acts*.
 - Public trust is essential for the RCMP to effectively serve and protect Canadians.
 - The RCMP Code of Conduct clearly outlines members' responsibilities to conduct themselves in a manner that not only meets, but exceeds, the rightfully high expectations of Canadians.
 - Your actions have adversely impacted the RCMP's reputation and do not meet the high expectations of the public we serve.
 - You are being directed/ordered to cease any further overt participation/support of the protests.
 - Any subsequent failure to comply with this direction/order will result in the initiation of a Code of Conduct.

If the member continues to overtly participate/support the protests, move to **Step 4**.

Step 4: Initiate Conduct Proceedings

Consider the nature and specific circumstances of the incident (see a non-exhaustive list above) and proceed with one of the options below:

- Notice of Conduct Meeting:
 - If there is **sufficient** information to make a decision on a *prima facie* basis that the member has contravened the Code of Conduct without mandating an investigation, proceed directly with a Notice of Conduct Meeting.
 - Based on the circumstances, select the most appropriate section of the Code of Conduct. Some relevant sections of the Code of Conduct have been outlined above (i.e. Sec. 3.3. Fail to follow direction/order, Sec. 3.1 Respect for law, Sec. 9.2. Public statements etc.).
 - Follow the conduct process as per AM XII.1 Conduct policy, including an assessment of the member's duty status.
- Mandate a Code of Conduct Investigation:
 - If there is **insufficient** information to make a decision, and/or any statements are required, the conduct authority **must** mandate an investigation prior to

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determining if the member has contravened the Code of Conduct.

- Based on the specific set of circumstances, use the most appropriate section(s) of the Code of Conduct to fully address the behaviour(s). Some relevant sections of the Code of Conduct have been outlined above (i.e. Sec. 3.3 Fail to follow direction/order, Sec. 3.1 Respect for the law, Sec. 9.2 Public statements).
- Follow the conduct process as per AM XII.1 Conduct policy, including an assessment of the member's duty status.

NB: A member can not be disciplined twice for the **same behaviours**. As such, if the member was given a verbal warning and/or a written 1004, the conduct process must only be used to address any **subsequent** behaviours.

Frequently Asked Questions:

Q1. Does the Code of Conduct apply to members who are on leave with or without pay (i.e. medical, suspension, LWOP, etc.)?

Yes. The RCMP Code of Conduct applies to all regular members and civilian members, both on and off-duty, in Canada and abroad. Even during periods of medical leave or any other type of leave with or without pay, a member is subject to the provisions of the *RCMP Act*, the *RCMP Regulations*, and all applicable *Commissioner's Standing Orders*.

Q2. Does the Code of Conduct apply to retired or members who have medically discharged from the RCMP?

No. Once a member ceases to be a member of the RCMP (i.e. a retired member or medically discharged), there is no longer any jurisdiction to address an alleged contravention of the Code of Conduct under the *RCMP Act*, *RCMP Regulations* or *Commissioner's Standing Orders (Conduct)*.

Q3. What is the current guidance when a member is displaying support for anti-vaccine protests or is displaying opposition to the government?

With respect to the member participation or support of protests, a conduct authority should be mindful of the balancing of two principal interests:

1. the employee's expectation of privacy and freedom of expression; and
2. the employer's legitimate interest in monitoring, regulating and dealing with employee conduct.

See above for a step by step guide to assessing the appropriate administrative action based on the specific set of circumstances.

[more to be added]

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4.4 Public Servants

Who

Public Service Employees are appointed under the [Public Service Employment Act](#).

Context

n/a

Authorities

- [Values and Ethics Code for the Public Sector](#)
- [Public Service Employee Code of Conduct](#)

Guidance

- Even when they are off duty, public service employees still need to comply with the [Values and Ethics Code for the Public Sector](#) and the [Public Service Employee Code of Conduct](#).
- Employees who have been placed on administrative leave without pay for failing to comply with the Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police, as well as any other employee on leave without pay continue to be subject to their terms and conditions of employment and are required to adhere to the [Values and Ethics Code for the Public Sector](#) and the [Public Service Employee Code of Conduct](#).
- Before taking part in a demonstration or posting/commenting on social media, employees must always consider public perception as well as any potential impact their comments may have on the organization or the possibility that their views may be represented as those of the organization.
- An employee's right to free speech is not unfettered and must be carefully balanced against their duty of loyalty and their employment responsibilities.
- Employees who have been charged or convicted of a breach of any Canadian or foreign law are required to report this fact to their supervisor as soon as feasible.
- Failure to comply with the terms and conditions of employment may result in disciplinary measures being taken, up to and including termination of employment.

Process

- Manager with specific cases or questions should communicate with their [divisional PS Labour Relations Advisor](#) as soon as possible for advice and guidance to determine if an investigation is warranted and to ensure that due process is followed.
- Each situation will need to be examined on a case by case basis to determine if any discipline measures should be imposed.
- Divisional PS Labour Relations Advisors may contact the Public Service Corporate Labour Relations Unit for advice.

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Division	Contact
NHQ	Irrelevant
National	
C	
O Division	
B	
H	
J	
L	
D / V	
F / Depot	
K / G	
E	
M	
Corporate Labour Relations	

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TAB 5.0
SPECIAL CIRCUMSTANCES



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5.1 Employees on Disability / Sick Leave

RCMP members who are Off Duty Sick (ODS) are in attendance and supporting the Freedom Convoy protests. What should I do as a Supervisor?

Both members and supervisors are reminded of their role and responsibilities regarding sick leave and the return to work process.

It is important for supervisors to ensure, once made aware that a member is ODS, that HRMIS is updated to accurately reflect the member's status. Additionally, for those members who are ODS over 40 hours or requiring a medical accommodation, they should be immediately referred to the Disability Management and Accommodation Program via their Disability Management Advisors or Occupational Health Services. This will support the member having an up to date medical profile, which is especially critical during the current mobilization.

Sick leave is a benefit that is provided as part of a comprehensive treatment plan, with the goal of returning members to productive employment with the RCMP. For this to be successful, all key stakeholders, which includes members and supervisors, need to actively participate in the return to work process and maintain regular contact.

For members who are ODS, the member has the responsibility to promptly provide necessary medical documentation to support an absence from work and/or to clarify relevant limitations or restrictions needed for return-to-work planning.

If a member wishes to remain engaged in, or commence participation in any secondary activity, remunerated or non-remunerated, the member will ensure the activity does not contravene RCMP policy in [AM ch. XII.16 – Ethics](#) and [AM ch. XVII.1 – Conflict of Interest](#). A member must also obtain written endorsement from the treating medical practitioner that the secondary activity will not have a negative impact on their recovery process.

In cases where members' health appears well enough to support the Freedom Convoy or other protest activities, but they do not appear well enough to engage in RCMP return to work planning, supervisors should flag any concerns to their Disability Management Advisor (DMA). This will permit the supervisor and DMA to review the progress of each member in the Disability Management and Accommodation Program, and hopefully to resolve any return to work issues. The Health Services Officer may also need to review the member's diagnosis and treatment plan, to determine if the absence from work is still valid, or if the member must provide an updated medical certificate to support their ODS status.

Additionally, members should be aware that even while ODS, they are still employees and remain subject to the RCMP Code of Conduct and the provisions of the RCMP Act.

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Health Services Contacts

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TAB 6.0
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(to be completed in next version)

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